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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,866	07/22/2003	Patrick J. Fitzgibbons	L0562.70046US00	7654

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EXAMINER

HAGEMAN, MARK

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,866

Applicant(s)

FITZGIBBONS ET AL.

Examiner

Mark Hageman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Morikawa. The reference discloses a method for sorting a plurality of items, to each of which a sequence number is assigned (col. 6, lines 7+), into a predetermined sorted sequence using a plurality of sorting regions (210, 230, 302, 303, 300), including for each sort, at least two initial sorting regions (210, 230), and at least two additional sorting regions (302, 303, 300), at least one of the additional sorting regions functioning as a return region, the items being initially located, in an unsorted order, in the at least one initial sorting region, the method comprising the acts of: sorting the items in each of the at least two initial sorting regions into an intermediary sorted set by moving at least some of the items at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions; and sorting the items within each intermediary sorted set by moving at least some of the items to the return region in substantially the predetermined sorted sequence (col. 5, lines 25+).

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3. With regards to claim 2, the reference further discloses using a computer to track the location of each of the plurality of items (col. 5, lines 25+).

4. With regards to claim 3, the reference further discloses the items are sorted in a single pass (col. 5, lines 25+). Examiner contends that items are sorted to some extent in a single pass, even though the sort is not complete. The claim does not require, for example, a sort to a CWS in a single pass.

5. With regards to claim 4, the reference further discloses conveying items from at least one of the return regions serially and in the predetermined sorted sequence (col. 5, lines 10+).

6. With regards to claim 5, the reference further discloses placing an identifier with each of the plurality of items (col. 6, lines 6+).

7. With regards to claim 6, the reference further discloses checking the identifier to ensure that the order of the items substantially matches the predetermined sorted sequence (col. 6, lines 6+).

8. With regards to claim 7, the reference further discloses the items are positioned linearly in the sorting regions (col. 5, lines 25+).

9. With regards to claim 8, the reference inherently discloses a computer is used to control the movement and positioning of the items according to a predetermined algorithm.

10. With regards to claim 9, the reference further discloses an apparatus for sorting a plurality of postal bins comprising: a plurality of sorting regions, wherein the plurality of sorting regions comprise for each sorting at least one initial region in which the postal

bins are initially located in an unsorted order, at least one return region in which postal bins are located after completion of sorting and at least one additional region used in the sorting; a first mechanism for physically moving at least one postal bin between at least two selected sorting regions; a second mechanism for physically moving at least one item between positions within each sorting region; an postal bin location tracking mechanism; and a controls operative for controlling the first and second mechanisms to move the postal bins into a predetermined sorted sequence at least partly in response to the tracking mechanism (col. 5, lines 25+).

11. With regards to claim 10, the reference further discloses at least some of the sorting regions are located one under another and wherein the first mechanism includes an elevator (510, 520)

12. With regards to claim 11, the reference further discloses the second mechanism is a conveyor (410, 490).

13. With regards to claim 12, the reference further inherently discloses the controls include a processor running a subroutine for issuing instructions according to a selected item sorting algorithm.

14. With regards to claim 15, the reference further discloses a plurality of sorting regions, wherein the plurality of sorting regions comprise for each sorting at least one initial region in which the postal bins are initially located in an unsorted order, at least one return region in which postal bins are located after completion of sorting and at least one additional region used in the sorting, means for physically moving at least one postal bin between at least two selected sorting regions of the plurality of sorting

regions; means for physically moving at least one postal bin between positions within each of the plurality of sorting regions; means for tracking the location of postal bins (col. 6, lines 6+); and means operative at least partly in response the tracking mechanism for controlling the first and second mechanisms to reposition postal bins into a predetermined sorted sequence (col. 5, lines 25+).

### ***Response to Arguments***

15. Applicant's arguments filed 9-5-2006 have been fully considered but they are not persuasive. Applicant stated that Morikawa does not disclose or suggest "sorting the items in each of the at least two initial sorting regions into an intermediary sorter set by moving at least some of the items in at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions." Examiner maintains that Morikawa does disclose sorting the items in each of the at least two initial sorting regions into an intermediary sorter set by moving at least some of the items in at least one of the initial sorting regions between the at least one initial sorting region and at least two of the additional sorting regions. It is clear from the disclosure and figures 12A-12D that trays from all of the sorting bins spend some time in areas 302 and 303 and thus trays from one stacker end up in different additional sorting regions.

Regarding claims 9 and 15 the applicant stated that Morikawa moves trays filled with sorted mail and thus does not disclose "a first mechanism for physically moving at least one postal bin between at least two selected sorting regions." Examiner maintains that Morikawa does disclose a first mechanism for physically moving at least one postal

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bin between at least two selected sorting regions in that "the bin contain trays which, when filled with sorted mail, are moved to tray storage areas," as stated by applicant.

Examiner maintains that the trays disclosed in Morikawa can be considered bins as there is no structure claimed that would distinguish the applicant's bins over the trays of Morikawa.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Hageman whose telephone number is (571) 272-3027. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH

A handwritten signature in black ink, appearing to be 'PM' or similar, written in a cursive style.

PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600